

## REMARKS

The office action of September 8, 2005 (Office Action) has been reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 1-37 are pending in this application. By this amendment, claims 15, 16, 23 and 27-30 have been amended, new claims 38-40 have been added, and claims 17 and 31 have been cancelled without prejudice or disclaimer. Claim 23 has been amended for editorial purposes to correct a typographical error regarding claim dependency. Claims 15, 16 and 27-30 have been amended to place them in better form for examination in accordance with U.S. practices. However, claims 15, 16 and 27-30 have not been substantively amended.

Claims 1-37 stand rejected as allegedly being anticipated by U.S. patent no. 6,912,652 to Ito *et al.* (Ito). As noted above, claims 17 and 31 have been cancelled without prejudice or disclaimer. Reconsideration and allowance of claims 1-16, 18-30 and 32-37 are respectfully requested.

For any reference to anticipate a claimed invention, the reference must teach each and every limitation of the claimed invention. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001). In that regard, Ito fails to teach or even suggest the recited subject matter of independent claims 1, 9, 12, 15, 16, 18, 32 and 35 of indicia indicative or representative of *levels of control or of allowable operations* for content or the recited subject matter of claim 6 of *permitting a set of operations* by reference to the content.

Ito is directed to mechanisms for *tracking* digital content rather than to *controlling* its distribution or allowing operations with the content. Ito simply has nothing to do with the claimed subject matter pertaining to levels of control or allowable operations for content.

The Office Action asserts that the user ID of Ito teaches the claimed subject matter of indicia indicative or representative of levels of control or of allowable operations for content and the claimed subject matter of permitting a set of operations by reference to content. On the contrary, Ito teaches "loading a content into an information terminal where the content is used and imprinting an ID ... into a predetermined location ... of the content" (emphasis added. Ito, col. 1, lines 52-57), which is used for identification purposes and not for access or control

purposes for the content. Based on the imprinted ID of Ito, a "user who reproduces illegal copies of the content is identified with the ID information imprinted thereon." *Id.* at lines 64-66. The ID information of Ito merely identifies a user or terminal providing an unauthorized version of content to another (e.g., similar to watermarking).

Ito clearly does not teach or imply that the ID represents any levels of control or allowable operations of the content. Quite the opposite, Ito indicates that it is desirable to trace illegal copies of digital content (col. 1, lines 31-32), as opposed to preventing the content from being copied in the first place.

In addition, the Office Action asserts that the order of operations noted in col. 3, lines 21 and 22 and shown in Fig. 2 of Ito teaches that the ID represents a level of control of the content. However, Ito merely teaches that the user is prevented from using content until after the ID is imprinted. This control of the *order of operations* is provided via *a protected area of memory and the ID imprinter* in the Ito system, which is *completely independent* of whatever or whoever the ID represents. As discussed in col. 4 of Ito at lines 45-49, "As a measure for preventing use of content before ID imprinting, for instance, *a memory area* of PC 4 that stores a content without an ID imprinted therein is protected by *the ID imprinter* so that reading of the content is prevented." The ID of Ito simply does not indicate or represent any levels of control of the content. The imprinting of the ID in the Ito system is monitored to prevent use of the content *prior to* the ID being imprinted therein, but whoever or whatever the ID actually represents is *irrelevant* to the Ito mechanism that protects the order of operations (i.e., imprint the ID before a user can access the content). As noted in col. 3, lines 51-53 of Ito, "Once an ID is imprinted, this protection is removed, enabling an image to be used as desired."

Thus, the ID of Ito does not teach or imply any indicia indicative or representative of levels of control or allowable operations of content, nor does Ito teach or imply any mechanisms for controlling or allowing operations of the content by reference to the content. Ito simply fails to teach or imply the claimed subject matter of claims 1-16, 18-30 and 32-37 pertaining to controlling or allowing operations of content.

For at least these reasons, Applicants respectfully submit that claims 1-16, 18-30 and 32-37 are allowable over Ito. Further, Applicants respectfully submit that new claims 38-40 are allowable along with independent claim 9, from which they ultimately depend.

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: Dec. 8, 2005

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